

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

SUSAN THAYER,
Qui Tam Plaintiff/Relator

Case No. 4:11-CV-129

ON BEHALF OF HERSELF AND
ON BEHALF OF THE
UNITED STATES OF AMERICA AND
THE STATE OF IOWA,

VERIFIED COMPLAINT

FILED UNDER SEAL

Plaintiff,

v.

PLANNED PARENTHOOD OF
THE HEARTLAND, INC.
(f/k/a PLANNED PARENTHOOD
OF GREATER IOWA, INC.),

Defendant

VERIFIED COMPLAINT – FILED UNDER SEAL

COMES NOW the Plaintiff/Relator Susan Thayer, on behalf of herself and on behalf of the United States of America and the State of Iowa, by and through her undersigned counsel, and, for her complaint, filed under seal, states and alleges as follows:

INTRODUCTION

1. Susan Thayer (herein “Susan Thayer” or “Relator”) brings this action on behalf of the United States of America and the State of Iowa against Planned Parenthood of the Heartland, Inc. (f/k/a Planned Parenthood of Greater Iowa, Inc.)¹ (hereafter referred to as “Planned Parenthood”) for treble damages, and civil penalties arising from Planned Parenthood’s false statements and false claims in violation of the federal False Claims

¹ On August 31, 2009, Planned Parenthood of Greater Iowa, Inc. (“PPGI”) and Planned Parenthood of Nebraska and Council Bluffs, Iowa, Inc. (“PPNCB”) filed articles of merger with the Iowa Secretary of State whereby PPNCB was merged into PPGI and PPGI changed its name to Planned Parenthood of the Heartland, Inc.

Act, 31 U.S.C. § 3729 *et seq.*, and the Iowa False Claims Act, IOWA CODE ANN. § 685 *et seq.* The violations include various and repeated false, fraudulent, and/or ineligible claims for reimbursements for Title XIX-Medicaid funds and/or false or fraudulent certifications or reports for Title X family planning services funds submitted by Planned Parenthood to billing agencies of the United States and/or the State of Iowa in excess of allowable limits for products and services rendered, for products not delivered to program recipients, and for products and services not lawfully reimbursable.

2. The federal False Claims Act provides that any person who knowingly submits or causes to be submitted a false or fraudulent claim to the government for payment or approval, or knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim, is liable for civil penalties up to \$11,000 for each such claim submitted or paid, plus three times the amount of the damages sustained by the government. Liability attaches both when a defendant knowingly seeks payment from the government that is unwarranted and when false records or statements are knowingly created or caused to be used to conceal, avoid, or decrease an obligation to pay or transmit money to the government. The Act allows any person having information regarding a false or fraudulent claim against the government to bring an action on behalf of himself or herself (in this case, Susan Thayer, for herself) and on behalf of the government and to share in any recovery. The complaint is filed under seal for sixty days (without service on the defendant during that period) in order to enable the government to conduct its own investigation without the defendant's knowledge and to determine whether to join the action.

3. The Iowa False Claims Act provides that any person is liable to the State for damages and penalties who, *inter alia*, “[k]nowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval” or “[k]nowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim” or “[c]onspires to commit [these] violation[s].” IOWA CODE ANN. § 685.2(1)(a) – (c). These damages and penalties include civil penalties of up to \$10,000 for each unlawful act committed, plus a penalty equal to three times the amount of the damages that the State sustained as a result of the fraudulent acts. *Id.* The Iowa Act also allows for private parties (in this case, Susan Thayer, for herself) to bring suit on behalf of the State of Iowa, and for the private party to share in the recovery amount. IOWA CODE ANN. § 685.3(4).
4. Relator is an original source with non-public, direct, personal, and independent knowledge of the facts and information upon which the allegations contained in this Complaint are based. As required by the federal False Claims Act, 31 U.S.C. § 3730(b)(2), Relator has provided the Attorney General of the United States and the United States Attorney for the Southern District of Iowa a statement of all material evidence and information related to this Complaint. As required by the Iowa False Claims Act, IOWA CODE ANN. § 685 *et seq.*, Relator has also provided said statement to the Attorney General of the State of Iowa. This disclosure statement is supported by material evidence known to Relator at her filing establishing the existence of Planned Parenthood’s false claims. Because the statement includes attorney-client communications and work product of Relator’s attorneys, and is submitted to the Attorney General/United States Attorney and the Iowa Attorney General in their

capacities as potential co-counsel in the litigation, Relator understands this disclosure to be confidential.

JURISDICTION AND VENUE

5. This action is brought under and pursuant to the federal False Claims Act, 31 U.S.C. § 3729 *et seq.*, and the Iowa False Claims Act, IOWA CODE ANN. § 685 *et seq.*, by the Relator, on her own behalf and on behalf of the United States of America and on behalf of the State of Iowa, and the Qui Tam provisions of the federal False Claims Act and the Iowa False Claims Act.
6. This Court has jurisdiction over this matter under and pursuant to 31 U.S.C. §§ 3730(b) and 3732(a). This Court also has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345, because the United States is a party to this matter and certain of the causes of action set forth herein are founded upon a law of the United States of America.
7. This Court has pendant or supplemental jurisdiction over the claims brought on behalf of the State of Iowa, which claims are brought pursuant to the Iowa False Claims Act, IOWA CODE ANN. § 685 *et seq.*; 28 U.S.C. § 1367(a); and 31 U.S.C. § 3732(b).
8. This Court has personal jurisdiction over Planned Parenthood pursuant to 31 U.S.C. § 3732(a), which provides that “[a]ny action under section 3730 may be brought in any judicial district in which the defendant . . . can be found, resides, transacts business or in which any act proscribed by section 3729 occurred.” Section 3732(a) also authorizes nationwide service of process. Planned Parenthood, at all times relevant herein, transacted business in the Southern District of Iowa.
9. Venue is proper in this district pursuant to 31 U.S.C. § 3732(a) because Planned Parenthood can be found in, resides in, and/or transacts business in the Southern District

of Iowa, and because some of the violations of 31 U.S.C. § 3729 described herein occurred within this judicial district.

PARTIES

10. Relator is an individual residing in Lakeside, Iowa. From 1991 to December 2008, she served as the center manager of Planned Parenthood's Storm Lake, Iowa, medical center. She simultaneously served as the center manager for Planned Parenthood's LeMars, Iowa, center from approximately 1993 to 1997.
11. Planned Parenthood is an Iowa non-profit corporation resident, upon information and belief, at 1171 7th Street, P.O. Box 4557, Des Moines, Iowa 50314.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

I. Title XIX-Medicaid Program

12. Title XIX-Medicaid is a public assistance medical care program administered by states and financed jointly through federal and state funds. The legal basis for the program is Title XIX of the Social Security Act.
13. The purpose of the Title XIX-Medicaid program is to help insure that people of low income have available to them medical and health care of good quality. For eligible recipients, defined as those at and below the federal poverty guidelines, the Title XIX-Medicaid program pays the cost of reasonable and necessary medical and health care.
14. Both State of Iowa law and regulations and United States law (the so-called Hyde Amendment) and regulations prohibit the use or payment of Title XIX-Medicaid funds as payment or reimbursement for elective abortions and abortion-related services except in limited circumstances. Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, Pub. L. No. 111-8, §§ 507-508, 123 Stat. 750, 802-03 (2009); 42 C.F.R. §§ 50.303, 50.304, 50.306; Iowa Admin. Code r.

441-78.1(17); Iowa Admin. Code r. 441-78.26(4) ("Abortion procedures are covered only when criteria in subrule 78.1(17) are met."); Medicaid Enterprise Family Planning Manual, p. 1.

15. The State of Iowa's Medicaid Program is jointly funded by both the United States and the State of Iowa and includes funds from the Title XIX-Medicaid program.
16. The Iowa Department of Human Services formed "Iowa Medicaid Enterprise" to formulate Medicaid policies and procedures compliant with federal and state laws and regulations to receive, process, and reimburse providers, including Planned Parenthood, for charges relating to the provision of medical services and supplies provided to patients who qualify for coverage under Title XIX-Medicaid.
17. At all times relevant herein, Planned Parenthood has submitted requests for reimbursement for Title XIX-Medicaid eligible medical services and supplies to and has been reimbursed for such services and supplies by Iowa Medicaid Enterprise.
18. The Iowa Department of Human Services has also formed the Iowa Family Planning Network to receive, process, and reimburse providers, including Planned Parenthood, for charges for family planning services and supplies which are more limited in scope than the full medical services and supplies that are available to Title XIX-Medicaid eligible clients. At all times relevant herein, Planned Parenthood has submitted requests for reimbursement for such limited family planning services and supplies to Iowa Family Planning Network following which, utilizing federal Title XIX funds, Iowa Family Planning Network has reimbursed Planned Parenthood for such family planning services and supplies.

19. Upon submission to Iowa Medicaid Enterprise and/or the Iowa Family Planning Network of properly documented and complying claims for charges for approved family planning services, prescription medications, contraceptive medications and devices, and medically-related services and procedures rendered or dispensed to eligible patients, Iowa Medicaid Enterprise and/or the Iowa Family Planning Network thereupon reimbursed approved providers, including Planned Parenthood, for charges for such family planning services, prescription medications, contraceptive medications and devices, and medically-related services and procedures.
20. At all times relevant herein, Planned Parenthood has been receiving reimbursements in this manner from Iowa Medicaid Enterprise and/or the Iowa Family Planning Network for family planning services, contraceptive medications and devices, and medically-related services and procedures which Planned Parenthood claims to have properly provided to eligible individuals.
21. During the last ten years or more, Planned Parenthood has, upon information and belief, been reimbursed by Iowa Medicaid Enterprise and/or the Iowa Family Planning Network pursuant to one or more Medicaid Provider Agreements between Planned Parenthood and the State of Iowa, each of which agreements has included, *inter alia*, a provision requiring Planned Parenthood to:

[C]omply with all applicable Federal and State laws, rules and written policies to the Iowa Medicaid program, including but not limited to Title XIX of the Social Security Act (as amended), the Code of Federal Regulations (CFR), the provisions of the Code of Iowa and the rules of the Iowa Department of Human Services and written Department policies, including but not limited to the policies contained in the Iowa Medicaid Provider Manual, and the terms of this Agreement.

(See Medicaid Provider Agreement, para. 2.3).

22. Among other regulations relevant to Relator's Complaint, the State of Iowa has promulgated the Iowa Medicaid Enterprise, Department of Human Services, All Provider Manual with which Iowa Medicaid providers, including Planned Parenthood, must comply. The Iowa Medicaid Enterprise, Department of Human Services, All Provider Manual, herein "Iowa All Provider Manual" is incorporated herein by this reference,

23. Pursuant to applicable Federal and State law and regulations, including Iowa Administrative Code (herein "IAC") 441-79.3(249A) and, upon information and belief, Planned Parenthood's Medicaid Provider Agreement with the State of Iowa, Planned Parenthood is required "to maintain clinical and fiscal records necessary to fully disclose the extent of services, care, and supplies furnished to Medicaid members and requires that Planned Parenthood's "[c]linical records . . . support charges made to the Medicaid program by documenting:

- Medical necessity of the services.
- The services provided are consistent with the diagnosis of the patient's condition.
- The services are consistent with professionally recognized standards of care."

(See Iowa All Provider Manual, March 1, 2008, p. 30).

24. Pursuant to applicable Federal and State law and regulations, including the Iowa All Provider Manual, services provided by Planned Parenthood and "covered by Medicaid shall:

- Be consistent with the diagnosis and treatment of the patient's condition.
- Be in accordance with standards of good medical practice.
- Be required to meet the medical need of the patient and be for reasons other than the convenience of the patient or the patient's practitioner or caregiver.

- Be the least costly type of service that would reasonably meet the medical need of the patient.

* * *

- Be provided with full knowledge and consent of the patient or someone acting in the patient's behalf . . ."

(See Iowa All Provider Manual, March 1, 2008, p. 20).

25. In addition to the foregoing, the Iowa All Provider Manual provides that "[p]ayment will not be made for medical care and services:

- That are medically unnecessary or unreasonable.
- That fail to meet existing standards of professional practice, [or] are currently professionally unacceptable . . .

* * *

- That are fraudulently claimed.
- That represent abuse or overuse."

(See Iowa All Provider Manual, p. 21).

26. Pursuant to Iowa law, prescriptions may not be dispensed to a patient without a physician's order or prior to a physician's order. See Iowa Code § 155A.27; 147.107(7).

27. In addition to the foregoing, the Iowa All Provider Manual provides that "[p]rescriptions will be reimbursed only if written or approved by the primary physician."

(See Iowa All Provider Manual, p. 26).

II. Title X – Public Health Service Act, 42 U.S.C. § 300 et seq.

28. Title X of the Public Health Service Act provides for, among other things, federally funded grants to state health agencies and non-profit organizations to provide family

planning services to low-income clients. These services include education, limited medical services, STD screening, contraceptive supplies, and information. See 42 U.S.C. § 300 et seq.; 42 CFR Part 59.

29. The Family Planning Council of Iowa is, and at all times relevant herein, has been the designated Title X agency and has disbursed federal Title X funds to providers, including Planned Parenthood, based upon certifications of compliance with relevant federal and state laws.
30. As a condition of receiving Title X funds, Planned Parenthood has agreed to use the federal Title X funds “solely for the [family planning] purposes for which the funds were granted” and specifically has agreed that no funds “shall be used in programs where abortion is a method of family planning.” 42 U.S.C. § 300a-6; 42 C.F.R. § 59.5; 42 U.S.C. § 300a-6 *see also* Iowa All Provider Manual, Family Planning Services, Chapter III Provider-Specific Policies, February 1, 2006, p. 1 (“Services performed for abortions . . . are not considered family planning-related services).
31. Under federal Title X regulations and guidelines, “[t]he inventory, supply, and provision of pharmaceuticals must be conducted in accordance with state pharmacy laws and professional practice regulations.” Office of Family Planning, U.S. Dep’t of Health & Hum. Servs. 10.2, Program Guidelines for Project Grants for Family Planning Services (Jan. 2001).

III. Planned Parenthood

32. Planned Parenthood holds itself out as providing reproductive health care services and family planning services to members of the general public, including but not limited to the distribution of contraceptive devices, the testing for and treatment of sexually

transmitted diseases, the testing and counseling for unplanned pregnancies, and the providing of a full range of abortion services.

33. In addition to administrative offices in Des Moines, Iowa, Planned Parenthood operates clinics or surgical centers in the Iowa towns of Ames, Ankeny, Cedar Falls, Creston, Des Moines, Ft. Dodge, Iowa City, Knoxville, Newton, Red Oak, Sioux City, Spencer, Storm Lake, and Urbandale.
34. Each of these clinics or surgical centers operates under the direction and control of Planned Parenthood.
35. The control of these clinics or surgical centers exercised by Planned Parenthood includes the establishment and enforcement of policy, procedures, practices, and financial accounting, the hiring and termination of employees, and the central purchasing and distribution of medical supplies, including oral contraceptive pills (herein "OCPs").
36. In compiling and processing bills for medical services or supplies rendered to patients at Planned Parenthood's clinics, Planned Parenthood utilizes a centralized computer network located at its Des Moines, Iowa office. This centralized computer network links each of Planned Parenthood's Iowa clinics to it and provides a centralized electronic patient record system. This centralized electronic patient record system is based upon input from each Planned Parenthood clinic and includes information or data relating to each patient visit and medical services or supplies provided to each patient.
37. Planned Parenthood's centralized accounting and billing system, based upon data recorded from each Planned Parenthood clinic processes all of the billing and reporting relating to medical services or supplies provided to each patient at each Planned

Parenthood clinic or to each visit by a patient to a Planned Parenthood clinic (known as "encounters" for Title X crediting purposes).

38. In turn, utilizing its centralized accounting and billing system, Planned Parenthood submitted claims for reimbursement to the Iowa Medicaid Enterprise (in the case of reimbursement requests for medical services and supplies provided to clients who were eligible for full Title XIX-Medicaid benefits) or to the Iowa Family Planning Network (in the case of reimbursement requests for family planning services provided to clients who are not entitled to full Title XIX-Medicaid benefits).
39. As manager of Planned Parenthood's Storm Lake, Iowa clinic and LeMars, Iowa clinic, in accordance with the directions given to Relator by her supervisor, Planned Parenthood Regional Director Todd Buchacker and Relator was responsible for overseeing the input of data into Planned Parenthood's centralized accounting and billing system which data included information relating to every visit by each patient to the clinics formerly managed by Relator which entries described the services rendered to each patient and medications prescribed or supplied to each patient.
40. By virtue of her positions with Planned Parenthood, Relator had access to and frequently viewed billing information, patient charts, and records for patients at all other Planned Parenthood clinics, in addition to the clinics which Relator managed.
41. In this way, Relator could and often did view entries in each patient billing record, including patient case histories, medical services and prescription medications provided, test and lab results, staff chart notations, charges to patients and payments credited to the patient's account whether made by patients or others, including insurers, Iowa Medical Enterprise and/or Iowa Family Planning Network, and donations to Planned Parenthood.

42. In addition to the foregoing, by virtue of her positions with Planned Parenthood, Relator had knowledge of the calculation and submission by Planned Parenthood of (a) billing requests to Iowa Medicaid Enterprise for reimbursement for medical services and supplies purportedly provided by Planned Parenthood to clients who were eligible for full Title XIX-Medicaid benefits; (b) billing requests to the Iowa Family Planning Network for reimbursement for family planning services purportedly provided by Planned Parenthood to patients who were not eligible for full Title XIX-Medicaid benefits; and (c) for requests to the Iowa Family Planning Network for Title X monies to which Planned Parenthood claimed it was entitled.
43. In addition and by virtue of her positions with Planned Parenthood, Relator viewed and was thus aware of the amounts and dates of funds received by Planned Parenthood from Iowa Medicaid Enterprise and/or Iowa Family Planning Network as reimbursements for medical services and supplies purportedly rendered by Planned Parenthood at its clients and/or of other funds received.
44. In this manner and based upon other observations and contacts, Relator became aware of the false and fraudulent billing practices of Planned Parenthood as described herein.

IV. Planned Parenthood's Fraudulent Schemes

45. From at least January 1, 1999 to the present and continuing, Planned Parenthood, acting through its officers, agents, and employees, including Jill June, CEO of Planned Parenthood, combined, conspired, and agreed together and with each other and with others not named herein to defraud the United States and State of Iowa by knowingly submitting and/or causing to be submitted to agencies of the United States, the State of Iowa, and/or their designated intermediaries, including Iowa Medicaid Enterprise and/or

Iowa Family Planning Network, false, fraudulent, and/or ineligible claims for reimbursement which Planned Parenthood knew were false, fraudulent, and/or ineligible when made, all in violation of applicable United States and State of Iowa laws and regulations and knowingly using, or causing to be made or used, false records and/or statements material to false or fraudulent claims.

46. In violation of the applicable United States and State of Iowa laws and regulations, Planned Parenthood engaged in three fraudulent schemes which are detailed herein, to wit:

(1) the making, in violation of the applicable United States and State of Iowa laws and regulations, of false, fraudulent, and/or ineligible claims to agencies of the United States, the State of Iowa, and/or their designated intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network, for reimbursement from Title XIX-Medicaid funds for oral contraceptive pills (herein "OCPs" or "birth control pills") (i) never delivered to the patient; (ii) dispensed to a patient without a physician's order or prior to a physician's order; (iii) dispensed to a patient at levels not medically reasonable or necessary and/or constituting "abuse or overuse" and/or not consistent with professionally recognized standards of care and practice; or (iv) dispensed without the patient's knowledge or consent and/or without having the patient undergo periodic examinations or new annual exams as required;

(2) the fraudulent billing and/or reporting to agencies of the United States, the State of Iowa, and/or their designated intermediaries, including Iowa Medicaid Enterprise and/or Iowa Family Planning Network for unbundled abortion-

related services and supplies and receiving Title XIX-Medicaid funds or other federal or state funds therefor; and

- (3) fraudulently certifying compliance with Title X and regulations and receiving Title X funds for such fraudulent certification despite the fact that Planned Parenthood knew or should have known that it had not complied and/or that its certification of compliance was false.

FIRST CLAIM FOR RELIEF

(Fraudulent Billing of Title XIX-Medicaid for Undelivered Prescriptions, Overutilization, and Failure to Perform Exams in Violation of 31 U.S.C. § 3729(a)(1)(A)-(C) and (G); IOWA CODE ANN. § 685.2(1)(a)-(c) and (g))

47. Relator hereby incorporates and realleges as fully as if set forth herein all prior allegations.
48. In early 2006, Planned Parenthood implemented a new program that it called its “C-Mail Program” which was designed to provide birth control pills or patches to all patients and in particular, due to its revenue potential to Planned Parenthood, to Medicaid-eligible patients.
49. During this phase of Planned Parenthood’s C-Mail Program, Medicaid-eligible women seeking birth control pills from a Planned Parenthood clinic or surgical center would, following an initial examination, be prescribed a three menstrual cycle supply (*i.e.*, 84 birth control pills) of birth control pills and would sign a consent form approving their participation in Planned Parenthood’s C-Mail Program and authorizing Planned Parenthood to use the U.S. Postal Service to mail birth control pills to addresses specified by the patient.

50. In many cases, neither the initial examination of the patient nor the prescription of birth control pills to the patient was performed or approved by a primary physician as required by State of Iowa law and regulations.
51. During this phase of Planned Parenthood's C-Mail Program, participation in the program by a patient was optional to the patient.
52. Many Planned Parenthood patients chose not to participate in Planned Parenthood's C-Mail Program, in many cases because these patients, ostensibly for personal reasons, did not want birth control pills or patches to be mailed to their homes or to their college dormitories.
53. Because Planned Parenthood's revenues were not sufficient to cover its abortion-related and other expenses, representatives of Planned Parenthood began to seek ways to enhance Planned Parenthood's revenues.
54. To explore ways to enhance Planned Parenthood's revenues to cover the deficit produced by its abortion-related and other expenses, Planned Parenthood charged its Health Services Management Team (herein "HSMT Team"), made up of, among others, Planned Parenthood CEO Jill June; Planned Parenthood Vice President of Health Services & Education Penny Dickey; Planned Parenthood's Regional Directors Todd Buchacker, Deb Lord, Jennifer Warren-Ulrick, and Sherri Sperlich, to develop methods to enhance revenue to Planned Parenthood to cover this shortfall.
55. Planned Parenthood's HSMT Team and other Planned Parenthood representatives determined that, following implementation of the original "opt in" C-Mail Program, most patients would pick up or receive OCPs for only 4 to 7 menstrual cycles and that Planned

Parenthood could increase its revenues by the C-Mail Program to a mandatory program whereby patients were supplied OCPs for a full year, *i.e.*, for 13 menstrual cycles.

56. In coming to this conclusion, Planned Parenthood determined that, as (i) the cost of a one menstrual cycle supply (*i.e.*, 28 OCPs)² of Tri-Cyclen Lo, Planned Parenthood's preferred OCP, was \$2.98; (ii) Planned Parenthood billed Iowa Medicaid Enterprise and/or Iowa Family Planning Network a total of \$35.00 for each one menstrual cycle supply of Tri-Cyclen Lo; and (iii) Planned Parenthood was reimbursed \$26.32 by Iowa Medicaid Enterprise and/or Iowa Family Planning Network for each one menstrual cycle supply of Tri-Cyclen Lo, Planned Parenthood could dramatically increase its revenues by converting its C-Mail Program to a mandatory program and by providing each patient with a full year's supply of OCPs.
57. Based upon these recommendations by Planned Parenthood's HSMT Team and other representatives of Planned Parenthood, in mid-2006, Planned Parenthood converted the original "opt in" C-Mail Program to a mandatory C-Mail Program whereby, usually without the advance knowledge and/or written consent of the patient and/or without informing the patient that the patient could affirmatively decline to participate in Planned Parenthood's C-Mail Program, each patient was, at the time of the initial examination, prescribed OCPs for one full year or 13 menstrual cycles; given OCPs to cover the first three menstrual cycles supply of OCPs; and thereafter automatically mailed a three menstrual cycle supply of OCPs every 63 days for at least one full year.

² A one menstrual cycle supply of Tri-Cyclen Lo consists of a 28-day supply of birth control pills. Seven of the 28 pills are placebos; the remaining 21 pills are active OCPs.

58. As a way to expand its now mandatory C-Mail Program, Planned Parenthood conducted competitions among its clinics to increase the number of patients enrolled in Planned Parenthood's C-Mail program.
59. By using each Planned Parenthood clinic's then-current C-Mail Program enrollee numbers as a baseline, Planned Parenthood established a percentage-increase goal from this baseline number and established a goal of 7,667 patients to be enrolled in Planned Parenthood's mandatory C-Mail Program by October 31, 2008.
60. As of August 31, 2008, Planned Parenthood had enrolled 6,600 women in its C-Mail Program.
61. On information and belief, by December 31, 2008, at least 7,000 women were enrolled in Planned Parenthood's now mandatory C-Mail Program.
62. Notwithstanding the requirements of the laws and regulations of the United States and/or the State of Iowa, in most cases no physician or other qualified clinician participated in the initial examination of a patient.
63. As a result and after such automatic enrollment in Planned Parenthood's C-Mail Program, Planned Parenthood mailed each patient, usually without any periodic or intervening examination, a three menstrual cycle supply (*i.e.*, 28 day per menstrual cycle) of OCPs (*i.e.*, a total 84 OCPs) every sixty-three (63) days for at least one full year.³

³ In general, Medicaid regulations restrict the dispensing of prescriptions for more than 30 days, but the regulations make an exception for prescriptions for a contraceptive which are allowed to be dispensed or filled for up to 90 days at a time. In the case of the OCPs prescribed by Planned Parenthood, the prescription consisted of a three menstrual cycle supply of OCPs, *i.e.*, 84 birth control pills. Medicaid regulations provide that the soonest a prescription for a contraceptive can be refilled is "after 75% of the previous supply is used" (*i.e.*, after 63 days from the date of a prescription, another 84 day supply of OCPs may be supplied to a patient). See Iowa Medicaid Enterprise, Prescribed Drugs Provider Manual, p. 7.

64. In light of a favorable arrangement with the manufacturer, the OCP prescribed by Planned Parenthood for most patients was Tri-Cyclen Lo. To those patients who were prescribed birth control pills, rather than patches, Planned Parenthood dispensed a three menstrual cycle supply of Tri-Cyclen Lo OCPs and then mailed a three menstrual cycle supply of Tri-Cyclen Lo OCPs (*i.e.*, 84 Tri-Cyclen Lo OCPs) to each patient every 63 days. In this manner, Planned Parenthood created a medically unnecessary surplus of at least 120.96 doses (approximately a four month's supply) of Tri-Cyclen Lo OCPs for each patient each year, resulting in overcharges to the Iowa Medicaid Enterprise and/or Iowa Family Planning Network of at least \$113.70 per patient.⁴
65. Moreover, contrary to acceptable medical practices, most patients were neither examined by a physician or other qualified clinician at the initial patient examination or at any time thereafter for at least one year or more after the initial OCP prescription was given to a patient.
66. In most cases, even after mailing OCPs to each patient for one full year or more, some patients, a year later, were given a Hormonal Option Without Pelvic Exam (herein a "HOPE examination") in place of a standard comprehensive follow-up medical examination.

⁴ Once patients were enrolled in its C-Mail program, without any interim patient examination, Planned Parenthood automatically mailed an 84-day supply of OCPs every 63 days for at least one full year, or nearly 6 times each year. To the extent patients even received these mailed OCPs, this scheme resulted in the accumulation by each patient of a surplus of unused OCPs by the end of each year totaling nearly 121 OCPs (an 84 day supply of OCPs was mailed to patients 5.79 times per year; an 84 day supply of OCPs should have been mailed to patients no more than 4.35 times per year; the result was an over-prescription of 1.44 84 day supplies of OCPs or a total of 120.96 OCPs). As Planned Parenthood was reimbursed by Iowa Medicaid Enterprise and/or Iowa Family Planning Network at the rate of 94 cents per OCP, medically unnecessary and/or fraudulent claims by Planned Parenthood each year amounted to \$113.70 per patient per year (120.96 OCPs x \$0.94/OCP = \$113.70).

67. A HOPE examination consisted of a visit to a Planned Parenthood clinic during which the patient, without the involvement of a physician or other qualified clinician and usually with the assistance of a non-medical employee of Planned Parenthood, completed a simple form and had her blood pressure checked.
68. Following this HOPE examination, if it occurred at all, a patient's OCP prescription was renewed for an additional one year period and, as before, a three menstrual cycle supply of OCPs was mailed to such patient every 63 days.
69. In some cases following a patient's HOPE examination, sometimes days later, an advanced registered nurse practitioner ("ARNP") would appear at the Planned Parenthood clinic at which the HOPE examination had taken place and sign off on all OCP prescriptions which had already been given to patients.
70. In addition to the foregoing and in most cases, Planned Parenthood did not contact patients to confirm that patients wanted and/or needed OCP prescriptions to be refilled and mailed. Instead, Planned Parenthood continued to mail OCPs to patients and to bill Iowa Medicaid Enterprise and/or Iowa Family Planning for each shipment to a patient of OCPs.
71. In many cases, patients had moved from the address to which Planned Parenthood was mailing OCPs without providing Planned Parenthood with a forwarding address. In these cases, OCPs mailed by Planned Parenthood to these patients were returned by the U.S. Postal Service to Planned Parenthood.
72. Notwithstanding these facts, Planned Parenthood did not credit or otherwise make an adjustment to its billings to or reimbursements received from Iowa Medicaid Enterprise and/or Iowa Family Planning Network.

73. In fact, Planned Parenthood instructed its staff to return OCPs that had been returned in the mail to its inventory of OCPs and to reship such returned OCPs to future patients, thereby effectively billing Iowa Medicaid Enterprise and/or Iowa Family Planning Network at least twice for the same OCPs.
74. In addition to the foregoing and on a number of occasions, patients complained to Planned Parenthood, including to Relator when she managed Planned Parenthood's clinics, that these patients had requested that Planned Parenthood cease mailing OCPs to them. Some of these patients reported that the unsolicited delivery of OCPs to a patient's home or dormitory caused severe strain on the patient's relationships.
75. Notwithstanding such requests from patients, Planned Parenthood continued to mail such patients a three menstrual cycle supply of OCPs every 63 days for at least one full year from the date of the initial patient examination.
76. On several occasions, physicians in the Iowa area, upon becoming aware of Planned Parenthood's practice of prescribing birth control without an interim comprehensive examination of the patient, objected to Planned Parenthood or to others about this practice and stated that this practice was below the medical standard of care.
77. Planned Parenthood justified its practice by contending that OCPs would soon be available over-the-counter and that Planned Parenthood therefore considered it acceptable to prescribe and distribute OCPs in this manner.
78. Planned Parenthood knew or should have known that its mandatory C-Mail Program would result in the prescription of medically unnecessary OCPs and thus to false, fraudulent or ineligible claims and/or overcharges by Planned Parenthood to Iowa

Medicaid Enterprise and/or Iowa Family Planning Network of at least \$113.70 per patient per year.

79. From mid-2006 through and after December 31, 2008, Planned Parenthood submitted claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network for OCP prescriptions Planned Parenthood had dispensed to patients it had arbitrarily enrolled in its mandatory C-Mail Program totaling at least \$3,316,320 per year as a result of which Planned Parenthood has submitted false, fraudulent or ineligible claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network of \$824,768.78 or more per year.
80. Information relating to the above-pleaded false, fraudulent or ineligible claims and/or reports, including the exact dates of the initial patient examination, the identity and qualifications of the person initially examining the patient, whether or not a patient was examined again after the initial examination, the exact dates that OCP prescription were initially provided to a patient, the exact dates prescription refills were mailed to a patient, and the amount actually billed to Iowa Medicaid Enterprise and/or Iowa Family Planning Network and/or reimbursed by the Iowa Medicaid Enterprise and/or Iowa Family Planning Network to Planned Parenthood for prescriptions of OCPs to each patient is within the exclusive control of Planned Parenthood.
81. The acts of Planned Parenthood and its officers and employees, as described herein, failed:
 - To comply with all applicable United States and State of Iowa laws, rules and written policies relating to the Iowa Medicaid program, including but not limited to Title XIX of the Social Security Act and relevant Iowa laws, all as

required by Planned Parenthood's State of Iowa Medicaid Provider Agreement and by these laws.

- To comply with applicable United States and State of Iowa laws, rules and written policies, including, without limitation, that the services or medical prescriptions for which Planned Parenthood billed to the United States and/or the State of Iowa were:

- i. Medically necessary.
- ii. Consistent with the diagnosis of the patient's condition.
- iii. Consistent with professionally recognized standards of care.
- iv. Consistent with the diagnosis and treatment of the patient's condition.
- v. In accordance with standards of good medical practice.
- vi. Met the medical need of the patient and were for reasons other than the convenience of the patient or the patient's practitioner or caregiver.
- vii. Were the least costly type of service that would reasonably meet the medical need of the patient.
- viii. Were provided with full knowledge and consent of the patient or someone acting in the patient's behalf.

82. In fact, and contrary to applicable United States and State of Iowa laws, rules and written policies relating to the State of Iowa Medicaid Program, including but not limited to Title XIX of the Social Security Act and relevant Iowa laws, the acts of Planned Parenthood and its officers and employees, as described herein:

- Were medically unnecessary and/or unreasonable.
- Failed to meet existing standards of professional practice.

- Were professionally unacceptable.
- Were fraudulently claimed.
- Represented abuse or overuse.
- Resulted in the distribution to patients of prescriptions of OCPs that were not written or approved by the primary physician.

83. As is described above, Planned Parenthood regularly and routinely engaged in a pattern and practice of knowingly submitting false, fraudulent or ineligible claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network for OCP prescriptions that were never delivered, that vastly exceeded a one-year supply, that were otherwise medically unreasonable or unnecessary, and/or that were issued without a physician's order or before a physician had given the order.
84. The acts of Planned Parenthood and its officers and employees, as described herein, constituted the knowing presentment of false, fraudulent or ineligible claims to Iowa Medicaid Enterprise and/or Iowa Family Planning Network for payment or approval, and/or the knowing making and/or using of false records or statements material to false or fraudulent claims in violation of 31 U.S.C. § 3729(a)(1)(A) and (B) respectively and IOWA CODE ANN. § 685.2(1)(a)-(b), and/or conspiracy to commit violations of said provisions in violation of 31 U.S.C. § 3729(a)(1)(C) and IOWA CODE ANN. § 685.2(1)(c).
85. Through the acts described above and otherwise, Planned Parenthood and its agents and employees knowingly made, used, and/or caused to be made or used false records and statements to conceal, avoid, and/or decrease Planned Parenthood's obligations to repay money to the United States and/or to the State of Iowa that Planned Parenthood improperly and/or fraudulently received, in violation of 31 U.S.C. § 3729(a)(1)(G) and

IOWA CODE ANN. § 685.2(1)(g). Planned Parenthood also failed to disclose to the United States and/or to the State of Iowa material facts that would have resulted in substantial repayments by Planned Parenthood to the United States and/or to the State of Iowa, in violation of 31 U.S.C. § 3729(a)(1)(G) and IOWA CODE ANN. § 685.2(1)(g).

86. The United States and its fiscal intermediaries, including the State of Iowa and, in particular, Iowa Medicaid Enterprise and/or Iowa Family Planning Network, unaware of the falsity of the records, statements, and claims made or submitted by Planned Parenthood and its agents and employees, paid and continue to pay Planned Parenthood for claims that would not be paid if the truth were known.

87. By reason of Planned Parenthood's false records, statements, claims, and omissions, the United States and/or Iowa have been damaged in the amount of many thousands of dollars. The precise number of such false claims as well as the precise amount of damage and loss caused the United States and the State of Iowa is presently undetermined, but, upon information and belief, is estimated to consist of 182,385 false records, statements, claims, and omissions with a value of \$14,401,119.60 relating to the automatic, mandatory enrollment of patients in Planned Parenthood's C-Mail program, and 45,360 false records, statements, claims, and omissions with a value of \$3,711,459.51 relating to the over-prescription and oversupply by Planned Parenthood of OCPs.

SECOND CLAIM FOR RELIEF
(Fraudulent Billing of Title XIX-Medicaid for Unbundled
Medical Services and Supplies Relating to Abortions in Violation of
31 U.S.C. § 3729(a)(1)(A)-(C) and (G); IOWA CODE ANN. § 685.2(1)(a)-(c) and (g))

88. Relator hereby incorporates and realleges as fully as if set forth herein all prior allegations.

89. Pursuant to Title X of the Public Health Service Act, Title X funds may not be used to subsidize abortion services offered by the grant participant, 42 U.S.C. § 300a-6; 42 C.F.R. § 50.303, and the participant must properly allocate expenses related to its abortion operations and fund them with non-public sources, 65 Fed. Reg. 41,270, 41,275-41,276 (July 3, 2000).
90. As is known to Relator by virtue of her former positions with Planned Parenthood, Planned Parenthood provides surgical abortion services at several of its Iowa medical or surgical centers and provides medication abortions at most of its Iowa medical centers and clinics. Medicaid services and supplies are also provided at the same medical or surgical centers and clinics.
91. Both Iowa laws and regulations and federal laws and regulations prohibit the use or payment of any public money as payment or reimbursement for elective abortions and abortion-related services. Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, Pub. L. No. 111-8, §§ 507-508, 123 Stat. 750, 802-03 (2009); Iowa Admin. Code r. 441-78.1(17); Iowa Admin. Code r. 441-78.26(4) ("Abortion procedures are covered only when criteria in subrule 78.1(17) are met.").
92. In spite of the aforementioned prohibitions, as is known to Relator by virtue of her former positions with Planned Parenthood, Planned Parenthood has, on a regular basis and at all times relevant to Relator's Complaint, sought reimbursement from Title XIX-Medicaid funds from Iowa Medicaid Enterprise and/or Iowa Family Planning Network for reporting for medical services and prescriptions or supplies rendered as part of the provision of abortions, including, without limitation, office visits, ultrasounds, Rh factor

tests, lab work, general counseling, and abortion aftercare, all of which were, when provided, integral to and/or related to surgical and medication abortion procedures.

93. In a practice commonly referred to as “unbundling” or “fragmentation” and as is known to Relator by virtue of her past positions with Planned Parenthood, Planned Parenthood knowingly and intentionally separated out charges for services rendered as part of the provision of abortions, including, without limitation, office visits, ultrasounds, Rh factor tests, lab work, general counseling, and abortion aftercare and submitted such separate “unbundled” charges as claims for reimbursement to Iowa Medicaid Enterprise and/or Iowa Family Planning Network.
94. In anticipation of the receipt of reimbursements for such separate “unbundled” charges from Iowa Medicaid Enterprise and/or Iowa Family Planning Network, Planned Parenthood then reduced the usual and customary charges to patients for abortions Planned Parenthood had provided. As a result, abortions provided by Planned Parenthood were subsidized by public funds contrary to the specific prohibitions and requirements of Title XIX-Medicaid and/or Title X and related regulations and Iowa law and related regulations.
95. By failing to identify and billing for the aforementioned procedures and services as associated with the performance of abortions, Planned Parenthood has been knowingly and fraudulently able to obtain reimbursement from the United States and/or the State of Iowa for abortion-related services, save for the actual abortion procedure itself, provided by Planned Parenthood in conjunction with all or nearly all of the abortions performed by Planned Parenthood at its clinics.

96. The unbundling scheme was applied systematically to virtually every patient who received an abortion at one of Planned Parenthood's centers. Each abortion was associated with a minimum of three unbundled and abortion-related procedures, and often several more. Although the procedures done in relation to abortions performed by Planned Parenthood varied from patient to patient, every patient would have a pregnancy test, an Rh factor test, and an ultrasound, and ordinarily multiple types of medication were dispensed.
97. In addition to the foregoing and pursuant to Federal laws and regulations, a Title X participant, *i.e.*, Planned Parenthood, may only engage in "non-directive" option counseling and may not "steer or direct clients toward selecting any option, including abortion, in providing options counseling." 65 Fed. Reg. 41,270, 41,273 (July 3, 2000).
98. At all times relevant to Relator's complaint and as is known to Relator by virtue of her positions with Planned Parenthood, Planned Parenthood has consistently and deliberately promoted abortion and/or encouraged patients to seek abortions at Planned Parenthood's medical or surgical centers or clinics and has scheduled appointments for patients to obtain abortions at Planned Parenthood's medical or surgical centers or clinics and has thereafter billed for such patient offices visits and unbundled abortion-related services and been reimbursed with Title XIX-Medicaid and/or Title X funds.
99. Although the provision of abortions has been a "loss leader" for Planned Parenthood, the "unbundling" of abortion services and the billing of abortion-related procedures in violation of Title XIX-Medicaid and/or Title X and related regulations and State of Iowa laws and regulations as aforesaid was done knowingly and systematically by Planned Parenthood to financially subsidize abortions as a method of family planning.

100. The acts of Planned Parenthood and its officers and employees, as described herein, constituted the knowing presentment of false or fraudulent claims to the United States and/or Iowa for payment or approval, and/or the knowing making and/or using of false records or statements material to false or fraudulent claims in violation of 31 U.S.C. § 3729(a)(1)(A) and (B) respectively and IOWA CODE ANN. § 685.2(1)(a)-(b) and/or conspiracy to commit violations of said provisions in violation of 31 U.S.C. § 3729(a)(1)(C) and IOWA CODE ANN. § 685.2(1)(c).
101. Through the acts described above and otherwise, Planned Parenthood and its agents and employees knowingly made or used and/or caused to be made or used false records and statements to the United States and/or Iowa to conceal, avoid, and/or decrease Planned Parenthood's obligations to repay monies to the United States and/or Iowa that Planned Parenthood improperly and/or fraudulently had received, in violation of 31 U.S.C. § 3729(a)(1)(G) and IOWA CODE ANN. § 685.2(1)(g). Planned Parenthood also failed to disclose to the United States and/or to Iowa material facts that would have resulted in substantial repayments by Planned Parenthood to the United States and/or Iowa, in violation of 31 U.S.C. § 3729(a)(1)(G) and IOWA CODE ANN. § 685.2(1)(g).
102. The United States and its fiscal intermediaries, including Iowa's Department of Human Services, Iowa Medicaid Enterprise, and/or Iowa Family Planning Network, unaware of the falsity of the records, statements, and/or claims made or submitted to the United States and/or the State of Iowa by Planned Parenthood and its agents and employees paid and continue to pay Planned Parenthood for claims that would not have been paid or be paid if the truth were known.

103. By reason of Planned Parenthood's false records, statements, claims, and omissions, the United States and Iowa have been damaged in the amount of many millions of dollars in Title XIX-Medicaid funds and/or Title X funds. The precise number of such false claims is presently undetermined, but, upon information and belief, a minimum of 21,724 abortions were performed during the time period in question.

THIRD CLAIM FOR RELIEF
(Fraudulent Certification of Compliance With Title X
Program Requirements and Federal and State Law
31 U.S.C. § 3729(a)(1)(A)-(C) and (G); IOWA CODE ANN. § 685.2(1)(a)-(c) and (g))

104. Relator hereby incorporates and realleges as fully as if set forth herein all prior allegations.
105. As stated above, both federal laws and regulations and Iowa laws and regulations prohibit the use or payment of any public money as payment or reimbursement for elective abortions and abortion-related services.
106. In spite of the aforementioned prohibitions, as is known to Relator by virtue of her former positions with Planned Parenthood, Planned Parenthood has, on a regular basis and at all times relevant to Relator's Complaint, fraudulently "tallied" every patient who was treated at or otherwise visited a Planned Parenthood clinic as a non-abortion patient and thus as an "encounter" for Title X grant purposes, even though many such patients received abortions and abortion-related services at such Planned Parenthood clinics.
107. In this manner, Planned Parenthood, during times relevant to Relator's Complaint, fraudulently obtained Title X funds and State of Iowa funds from the Family Planning Council of Iowa and others to which it was not legally entitled.
108. In addition to the foregoing, Federal law requires that, if Planned Parenthood commingles its abortion operations with its non-abortion operations, it must be able to demonstrate

that its abortion operations are financially self-sufficient and are operated sufficiently separately from services funded with Title X funds to avoid the use of Title X funds in its abortion operations. 65 Fed. Reg. 41,270, 41,275-41,276 (July 3, 2000).

109. As is known to Relator by virtue of her former positions with Planned Parenthood, Planned Parenthood's internal financial records reflect that its abortion operations have, at all times relevant to Relator's Complaint, operated at a deficit and Planned Parenthood's other non-abortion operations, including its Title XIX-Medicaid operations, have, during this same period of time, operated at a profit.

110. As is known to Relator by virtue of her former positions with Planned Parenthood, Planned Parenthood commingles its abortion operations with its non-abortion operations by utilizing the same personnel, facilities, supplies, utilities, and other resources in providing abortion services as it does for its other services at most, if not all, of its clinics where abortion services are provided, thus, at least in part, subsidizing its abortion operations with Title XIX and Title X funds.

111. As is known to Relator by virtue of her former positions with Planned Parenthood, due to Planned Parenthood's operational deficit for its abortion services and contrary to federal and state laws and regulations, Planned Parenthood's abortion operations have been, in fact, subsidized and supported by revenues it derived, at least in part, from reimbursements of Title XIX and/or Title X funds.

112. In consideration of Planned Parenthood's wholesale disregard of its Title X grant, Relator prays for the disgorgement from Planned Parenthood of all Title X monies paid to Planned Parenthood during the grant years 2002 through 2009, the precise amount of

which, upon information and belief, based on Planned Parenthood's self-reported annual grant income, is \$7,243,326.

WHEREFORE, Relator Susan Thayer respectfully requests that this Honorable Court enter judgment against Defendant Planned Parenthood, as follows:

(a) That Defendant Planned Parenthood cease and desist from violating 31 U.S.C. § 3729 *et seq.* and IOWA CODE ANN. § 685.2(1)(a)-(c) and (g).

(b) That the Court enter judgment against Defendant Planned Parenthood in an amount equal to three times the amount of damages the United States has sustained as a result of Defendant's actions, as well as civil penalties of \$11,000 for each violation of 31 U.S.C. § 3729.

(c) That the State of Iowa be awarded the amount paid by the State of Iowa as a result of Defendant's violation of IOWA CODE ANN. § 685.2(1)(a)-(c), including interest and a civil penalty equal to not less than \$5,000 and not more than \$10,000 for each violation, as well as the fees, costs, and expenses incurred in obtaining the injunctive relief and civil remedies including court costs, attorney's fees, witness fees, and deposition fees.

(d) That, in consideration of Planned Parenthood's wholesale disregard of its Title X grant, Planned Parenthood be required to disgorge all Title X monies paid to Planned Parenthood during the grant years 2002 through 2009, the precise amount of which, upon information and belief, based on Planned Parenthood's self-reported annual grant income, is \$7,243,326.

(e) That Relator Susan Thayer be awarded the maximum amounts allowed pursuant to 31 U.S.C. § 3730(d) and IOWA CODE ANN. § 685.3(4).

(f) That Relator be awarded all costs and expenses of this action, including her attorneys' fees.

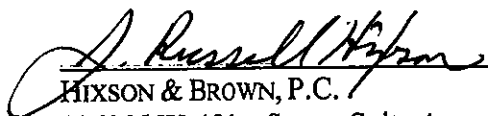
(g) That this Court award such other and further relief to the United States of America and/or to the State of Iowa and/or to Relator Susan Thayer as it deems just and proper.

JURY DEMAND

Pursuant to F.R.C.P. 38, Relator Susan Thayer hereby demands trial by jury of all issues so triable.

DATED: This 21st day of March, 2011.

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Susan Thayer

STATE OF IOWA)
) ss.
COUNTY OF Buena Vista)

SUSAN THAYER, upon oath, states that she is over the age of 18 years; has personal knowledge of the facts set forth in the foregoing pleading and is competent to testify thereto; has read the foregoing Verified Complaint, and that, upon information and belief, the facts set forth therein are correct.

Susan Thayer
SUSAN THAYER

Subscribed and sworn to before me by Susan Thayer this 11th day of March, 2011.

Witness my hand and official seal.

My commission expires:



Adam Friedrichsen
Notary Public